

Effective 5/13/2014

13-32a-117 Property disposition if no criminal charges filed -- Administrative hearing.

- (1) The original victim or the pawn or secondhand business may request an administrative property disposition hearing with the Division of Consumer Protection if:
 - (a) more than 30 days have passed since:
 - (i) the law enforcement agency placed a hold on the property; or
 - (ii) the property was seized by the law enforcement agency; and
 - (b) an agreement pursuant to Subsection 13-32a-115(2)(b) has not been reached.
- (2) The original victim or the pawn or secondhand business shall provide to the Division of Consumer Protection at the time of the request for a property disposition hearing:
 - (a) a copy of the sworn statement of the original victim taken pursuant to Section 13-32a-115 and the case number assigned by the law enforcement agency; and
 - (b) a written notice from the prosecuting agency with jurisdiction over the case involving the property that the prosecuting agency has made an initial determination under Section 13-32a-109 or 13-32a-109.5 and this chapter that the property is no longer needed as evidence.
- (3)
 - (a) Within 30 days after receiving the request for a property disposition hearing from the original victim or the pawn or secondhand business, the Division of Consumer Protection shall schedule an adjudicative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to determine ownership of the claimed property. The division shall provide written notice of the hearing to the pawn or secondhand business and the original victim.
 - (b) The division shall conduct the hearing to determine disposition of the claimed seized property, taking into consideration:
 - (i) the proof of ownership of the property and compliance with Subsection 13-32a-115(1) by the original victim;
 - (ii) the claim of ownership by the pawn or secondhand business and the potential financial loss to the business; and
 - (iii) compliance by the pawn or secondhand business with the requirements of this chapter.
 - (c) If the division determines that the property should be released to the pawn or secondhand business, the original victim retains a right of first refusal over the property for 15 days and may purchase the property at the amount financed or paid by the pawn or secondhand business.
 - (d) The party to whom the division determines the property is to be released shall maintain possession of the property for the duration of any time period regarding any applicable right of appeal.

Amended by Chapter 189, 2014 General Session